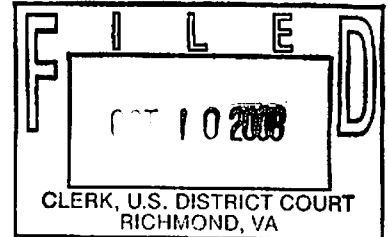


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION



MARISOL B. BURBANO,

Plaintiff,

v.

JAMES A. BURBANO a.k.a. JAIME
ALVARO BURBANO,

Defendant.

Action No. 3:08-CV-648

MEMORANDUM OPINION

THIS MATTER is before the Court on Defendant's Notice of Removal to the Eastern District of Virginia and Counterclaim (Docket No. 1). For the reasons set forth in this Opinion, Defendant's request is DENIED.

BACKGROUND

Defendant filed a Notice of Removal in this Court on October 7, 2008. Defendant failed to provide state court pleadings accompanying his Notice of Removal. Instead, Defendant attached to the Notice of Removal an incomplete docket sheet from the District Court for Tulsa County, Oklahoma for a case titled In re Marriage of Marisol B. Burbano, No. FD-2004-4392 (Tulsa Dist. Ct. Oct. 27, 2005).

DISCUSSION

In order for a defendant to remove a civil action or criminal prosecution from a State Court, they must "file in the district court of the United States for the district and division within which such action is pending a notice of removal." 28 U.S.C. § 1446 (a) (2008).

The notice of removal must contain "a short and plain statement of the grounds for removal, together with a copy of all process, pleadings and orders served upon such defendant . . . in such action." Id.

The case which Defendant has attempted to remove is apparently pending in the District Court in and for Tulsa County, Oklahoma. The proper district court of the United States for this particular jurisdiction is the United States District Court for the Northern District of Oklahoma, not this Court. For this reason, this case may not be removed to this Court.

CONCLUSION

For the foregoing, Defendant's Motion for Removal is DENIED, and the case is REMANDED to the Tulsa County District Court.

Let the Clerk send a copy of this Order to all counsel of record.

It is SO ORDERED.

<u>/s/</u> James R. Spencer Chief United States District Judge
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ENTERED this 10th day of October 2008

James R. Spence
Chief United States District Judge